



# **TOPIC AND YEARLY INDICES OF HEALTH CARE ANTITRUST ADVISORY OPINIONS BY COMMISSION AND STAFF**

**Health Care Services and Products Division  
Bureau of Competition  
Federal Trade Commission  
Washington D.C. 20580**

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**August 2006**

## INTRODUCTION

The Federal Trade Commission will respond to requests for advice from health care providers and others through its advisory opinion process.<sup>1</sup> On September 15, 1993, the Federal Trade Commission and the Department of Justice jointly issued six policy statements containing “safety zones” for provider conduct that the agencies generally would not challenge under the antitrust laws. The policy statements were updated and revised on September 27, 1994, when the agencies jointly issued nine statements of antitrust enforcement policies and analytical principles regarding mergers and various joint activities in the health care area. In response to changes in the health care market, on August 28, 1996, the agencies issued revisions to statements eight and nine concerning physician network joint ventures and multi-provider networks.<sup>2</sup> The Commission will respond within 90 days to requests for advice about most matters addressed by the policy statements, and within 120 days to requests for advice regarding other non-merger health care matters.

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<sup>1</sup> FTC Rules of Practice, § 1.1-1.4; 16 CFR § 1.1-1.4.

<sup>2</sup> *Statements of Antitrust Enforcement Policy in Health Care*, issued on August 28, 1996, 4 Trade Reg. Rep. (CCH) ¶13,153 revised the *Statements of Enforcement Policy and Analytical Principles Relating to Health Care and Antitrust*, issued on September 27, 1994, 4 Trade Reg. Rep. (CCH) ¶13,152. The 1994 statements revised and expanded the *Department of Justice and Federal Trade Commission Antitrust Enforcement Policy Statements in the Health Care Area* issued on September 15, 1993, 4 Trade Reg. Rep. (CCH) ¶13,151.

**TOPIC INDEX OF HEALTH CARE ANTITRUST ADVISORY OPINIONS  
BY COMMISSION AND BY STAFF<sup>3</sup>  
August 2006**

**I. NETWORK JOINT VENTURES**

**A. Physician Network Joint Networks**

***Bay Area Preferred Physicians.*** To Martin J. Thompson; September 23, 2003. (Proposal by six county medical societies located in the San Francisco Bay area to develop a physician network and establish a messenger arrangement to minimize the costs associated with physicians contracting with health plans and other payers).

***MedSouth, Inc.*** To John J. Miles; February 19, 2002. (Proposal by multispecialty physician network joint venture to implement clinical resource management program and contract with third party payers).

***Associates in Neurology, Inc.*** To Robert C. Norton; August 13, 1998. (IPA network composed of eleven neurologists formed to contract with managed care plans).

***Phoenix Medical Network, Inc.*** To William T. Harvey; May 19, 1998. (Physician network of osteopathic services providers formed to contract with third party payers).

***Yellowstone Physicians, L.L.C.*** To David V. Meany, Esq.; May 14, 1997. (Multispecialty physician network joint venture formed to contract with third party payers).

***Uronet of Louisiana, L.L.C.*** To Christopher C. Johnston; January 23, 1996. (IPA network of urologists formed to contract with managed care plans).

***Eastern Ohio Physicians Organization, Inc.*** To Stephen P. Nash, Esq.; September 28, 1995. (Multi speciality physician organization established to contract on behalf of its participating physicians with third party payers).

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<sup>3</sup> Advisory opinions are listed in more than one category when they discuss several issues. Commission advisory opinions are indicated by an asterisk (\*); other opinions are staff advisory opinions. A yearly index follows this topic index. The indices, advisory opinions, and other information relating to the Commission's advisory opinion program are available at the FTC's web site at: <http://www.ftc.gov/bc/advisory.htm>. For additional information contact David Narrow at (202) 326-2744 or Mary Connelly-Draper at (202) 326-2760.

***Hematology/Oncology Care Specialists of Western Pennsylvania, P.C.*** To Stephen P. Nash, Esq.; September 21, 1995. (Physician network of hematology/oncology services providers formed to negotiate with third-party payers).

***Otolaryngology Specialty Providers of Georgia.*** To Thomas W. Rhodes, Esq.; August 15, 1995. (Physician network of otolaryngology services providers formed to facilitate individual contracts among network members and payers).

***Northwestern Nevada Orthopaedic Surgery Alliance.*** To Jacqueline C. Cox; July 11 & 27, 1995. (Physician network of orthopaedic services providers formed to facilitate individual contracts among network members and payers).

***Oakland Physician Network, L.L.C.*** To John A. Cook, Esq.; March 28, 1995. (Physician network joint venture composed of primary care physicians formed to market primary and specialty physician services to health benefit plans).

***Rocky Mountain Cardiovascular Affiliates.*** To Neil E. Ayervais, Esq.; September 23, 1994. (Proposal by a limited liability company composed of physician cardiovascular services practices to negotiate and contract with third party payers).

***South East Managed Care Organization/Jackson Medical Cooperative.*** To George Q. Evans, Esq.; July 5, 1994. (Physician network joint venture between physician directed managed care organization and group of physician providers).

***ACMG, Inc.*** To Paul W. McVay, President; July 5, 1994. (Proposed agreement between state medical society and independent health care management and development company to establish society-sponsored state-wide PPO).

***California Managed Imaging Medical Group, Inc.*** To J. Bert Morgan, Esq.; November 17, 1993. (Proposal by a radiologist-owned PPO network to provide professional radiology services to payers on a regional or statewide basis. The letter discusses fee-setting, market power, and limitation of provider panel).

***Maryland Medical Eye Associates.*** To Charles E. Rosolio; May 15, 1987. (Formation, marketing, and operation of a partially integrated professional organization, owned by nine ophthalmologists who are in five separate medical practices, to offer services to HMOs and other groups on a capitation and fee schedule basis).

***Pacific International Health, Inc.*** To Richard C. Greenberg, Esq.; August 28, 1986. (Formation and operation of a provider-controlled PPO; price agreements to be between individual participating physicians and each payer).

***Kitsap Physicians Service.*** To William G. Kopit, Esq.; May 22, 1984, and March 26, 1984. (Proposal by physician-owned IPA/HMO with most of the local physicians as participants to close off access to plan to additional physicians).

***HMO/IPA.*** To Gilbert M. Frimet, Esq.; March 22, 1984. (Use by IPA of fee schedule to allocate capitation payment among participating physicians. The proposal would require exclusive dealing by IPA members with the IPA).

**B. Hospital/Physician Network Joint Ventures**

***Suburban Health Organization, Inc.*** To Clifton E. Johnson, Esq. and William H. Thompson, Esq.; March 28, 2006. (Proposed plan by PHO to be the exclusive bargaining and contracting agent with health plans for the primary care physicians employed at the PHO's eight member hospitals).

***IPA Sponsored PPO.*** To Martin J. Thompson; June 20, 1991. (IPA network's sponsorship of a PPO to negotiate prices with hospitals whose services will be marketed as part of the PPO).

***Pan American Management Associates.*** To Robert P. Macina, Esq.; June 27, 1989. (Creation of a limited partnership between hospital and physicians to establish a PPO. The physicians would be excluded from price negotiations with payers).

***California PPO.*** To Michael A. Duncheon, Esq.; March 17, 1986. (Proposal by PPO composed of multiple hospitals and physician organizations to negotiate contracts with third-party payers).

**C. Hospital Network Joint Ventures**

***Mayo Medical Laboratories.*** To George A. Cumming, Jr., Esq.; July 17, 1996. (State or regional networks of hospital laboratories providing outpatient laboratory services organized to compete for payer contracts).

**D. Other Provider Network Joint Ventures**

***Northeast Pharmacy Service Corporation.*** To Paul E. Levenson; July 27, 2000. (Network of independent pharmacies in Massachusetts and Connecticut offering package of medication-related patient care services to physician groups).

***Orange Pharmacy Equitable Network.*** To John A. Cronin, Pharm D., J.D.; May 19, 1999. (Network of retail pharmacies and pharmacists offering drug product distribution and disease management services).

***Alliance of Independent Medical Services, LLC.*** To Timothy C. Cashmore; December 22, 1997. (Network of ambulance and ambulette services providers formed to contract for transportation services with third party payers).

***New Jersey Pharmacists Association.*** To Allen Nichol, Pharm. D.; August 12, 1997. (Pharmacist network offering health education and monitoring services to diabetes and asthma patients).

***First Look, L.L.C.*** To James L. Wiant; June 19, 1997. (Network of optical firms organized to respond to requests for proposals for employer contracts for optical and vision services).

***Ohio Ambulance Network.*** To Shawn M. Lyden, Esq.; January 23, 1997. (Network of ambulance and ambulette services providers formed to contract for transportation services with third party payers).

***Mobile Health Resources.*** To John A. Cook, Esq.; January 23, 1997. (Network of ambulance companies formed to contract for transportation services with third party payers).

***Southwest Florida Oral Surgery Associates.*** To Guy E. Whitesman; December 2, 1996. (Cooperative of oral and maxillofacial surgery practices formed to jointly market services to third party payers).

***Southern Arizona Therapy Network, Inc.*** To Martin Janello; December 7, 1995. (Provider network of physical, occupational, and speech therapists organized to facilitate contracts among network members and payers).

***Palmetto Dental Alliance.*** To Scott Y. Barnes, Esq.; September 23, 1994. (Proposal by exclusive provider organization to provide dental services to beneficiaries of third party health benefits plans).

**E. Other Joint Bidding**

***California All Health.*** To William G. Kopit, Esq. and Clifford E. Barnes, Esq.; June 14, 1995. (Joint venture of six health maintenance organizations formed to bid for certain California Medicaid contracts).

***Peer Review Organizations of Ohio Foundation.*** To Larry D. Spencer, Executive Director; April 25, 1984. (Proposal by an association of nine Professional Standards Review Organizations to bid for contract with HHS to serve as a Peer Review Organization for Ohio under the Medicare program).

## II. JOINT PURCHASING ARRANGEMENTS

### A. Joint Purchasing By Health Care Providers

*Elmore Community Hospital, Inc.* To Derrell O. Fancher; June 20, 1995. (Joint venture between two acute care hospitals for the purchase of certain personnel and other services).

*Louisiana Health Care Association.* To Steven E. Adams, J.D., Director of Governmental Relations; April 23, 1982. (Group purchasing agreement for nursing home association's members).

### B. Joint Purchasing by Payers

*Association for Quality Health Care, Inc.* To Cecil M. Cheves, Esq.; August 28, 1986. (Proposal by an association of employers with self-funded health plans to negotiate with providers).

*The Equitable Life Assurance Society.* To Jonathan E. Gaines, Esq., V.P. and Counsel; March 26, 1986. (Proposal by an insurer to enter into contracts with hospitals for DRG-based payment. The prices would apply to insurer's own business and would be available to self-funded plans that contract with the insurer for that service).

*Private Healthcare Systems.* To Michael L. Denger, Esq.; September 24, 1985. (Proposal by an insurer to develop a proprietary national network of managed health care systems and to function as a joint purchasing agent for commercial health insurers).

## III. OTHER JOINT VENTURES

### A. Hospital Joint Ventures

*Columbine Family Health Center.* To Richard J. Sahli; November 8, 1995. (Proposal to add a patient sorting provision to an agreement between an acute care hospital and a rural health care clinic).

*Erlanger Medical Center/ Women's East Inc.* To Carlos C. Smith, Esq. and Edward N. Boehm, Esq.; May 31, 1995. (Joint venture between two acute care hospitals for establishment of a new hospital specializing in obstetrical hospital services).

### B. Insurer/Third-Party Payer PPOs

***Association for Quality Health Care, Inc.*** To Cecil M. Cheves, Esq.; August 28, 1986. (Association of employers with self-funded health plans to negotiate with providers).

***The Equitable Life Assurance Society.*** To Jonathan E. Gaines, Esq., V.P. and Counsel; March 26, 1986. (Proposal by an insurer to enter into contracts with hospitals for DRG-based payment. The prices would apply to insurer's own business and would be available to self-funded plans that contract with the insurer for that service).

***Private Healthcare Systems.*** To Michael L. Denger, Esq.; September 24, 1985. (Proposal by an insurer to develop a proprietary national network of managed health care systems and to function as a joint purchasing agent for commercial health insurers).

***\*Health Care Management Associates.*** 101 F.T.C. 1014 (1983). To Irwin S. Smith, M.D., President; June 7, 1983. (PPO organized by an independent intermediary between physicians and payers).

#### **IV. PROVIDER PARTICIPATION IN EXCHANGES OF PRICE AND COST INFORMATION**

***Medical Group Management Association.*** To Gerald Niederman; November 3, 2003. (Proposal by association of medical practice administrators relating to survey of physician practices regarding insurer payments and other aspects of insurer business practices).

***PriMed Physicians.*** To Gregory G. Binford; February 6, 2003. (Proposal by physicians in Dayton, Ohio, to collect and publish information about third party payers' policies and procedures, including fees that specific health plans pay to Dayton doctors compared to fees they pay for the same procedures to physicians in other areas, in connection with the formation of an advocacy group to educate the public about issues affecting the Dayton health care market).

***Business Health Companies, Inc.*** To Ralph T. Smith, Jr.; October 18, 1996. (Survey of hospital prices by third party consultant).

***Dental Consultant Salary Survey.*** To Samuel D. Dednam, D.M.D.; May 30, 1991. (Survey of salary ranges for certified dental consultants).

***American Dental Association.*** To Peter M. Sfikas, Esq.; February 15, 1990. (Study of the establishment of UCR rates by dental insurers and the impact of those rates on consumers' out-of-pocket costs).

*North Texas Chapter of the American College of Surgeons.* To B. Ward Lane, M.D., President; December 12, 1985. (Survey of members' fees).

*American Dental Association.* To Peter M. Sfikas, Esq.; August 26, 1985. (Survey of the range of dentists' fees in local markets).

*Utah Society of Oral and Maxillofacial Surgeons.* To Dennis L. Dedecker, D.D.S., Secretary; February 8, 1985. (Survey of range of fees and average fees charged by members).

## **V. PROVIDERS' COLLECTIVE PROVISION OF FEE-RELATED INFORMATION**

### **A. Relative Value Schedules/Guides**

*American Medical Association.* To Kirk B. Johnson; March 26, 1996. (Dissemination of public information relating to proposed revisions to Medicare's resource-based relative value scale).

*Intracorp.* To Sharon B. Donzis, Esq.; March 25, 1988. (Proposal by a cost-containment service to use a physician-developed RVS to determine UCR price screens).

*\*American Society of Internal Medicine.* 105 F.T.C. 505 (1985). To William G. Kopit, Esq.; April 19, 1985. (Development and dissemination of RVS by an association of physicians).

### **B. Fee Review**

*\*American Medical Association. (1994).* To Kirk B. Johnson, General Counsel; February 14, 1994. (Proposal concerning professional society peer review of physicians' fees, required physician participation in advisory fee review, and medical society discipline for fee-related conduct).

*National Capital Society of Plastic and Reconstructive Surgeons.* To Robert J. Wilensky, M.D., President-Elect; April 23, 1991. (Formation of a physician panel which would render advisory opinions regarding fee disputes).

*Academy of Ambulatory Foot Surgery.* To Andrew K. Dolan, Esq.; July 31, 1987. (Professional association assistance to third-party payers in determining when foot surgery may be restricted to less expensive outpatient settings).

*Passaic County Medical Society.* To William T. McGuire, Executive Director; January 3, 1986. (Professional society's peer review of physicians' fees that is mandatory and binding on the physician).

***Tarrant County Medical Society.*** To Lynn C. Perkins, M.D., President; July 11, 1984. (Medical society advisory fee review program for the voluntary resolution of disputes).

***American Podiatry Association.*** To Werner Strupp, Esq.; March 13, 1984. (Use of HCFA's Medicare fee profile by society as reference aid in reviewing reasonableness of disputed fees).

***American Podiatry Association.*** To Norman Klombers, DPM, Executive Director, and John Grad, Esq., General Counsel, Podiatry Society of Virginia; August 18, 1983. (Peer review of fees, utilization, and quality of care by professional society).

***\*Iowa Dental Association.*** 99 F.T.C. 648 (1982). To Peter M. Sfikas, Esq.; April 8, 1982. (Voluntary and advisory peer review of dentists' fees by a professional society).

**C. Discussions with Payers**

***Medical Society of the County of Erie.*** To James F. Phillips, M.D., President; March 12, 1984. (Medical society discussions with third-party payers regarding fee allowances).

**VI. PROVIDERS' COLLECTIVE PROVISION OF NON-FEE-RELATED INFORMATION**

**A. Standard Setting Programs**

***Foundation for the Accreditation of Hematopoietic Cell Therapy.*** To Paul L Yde; April 17, 1997. (Standard-setting and accreditation program for organizations involved in medical or laboratory practice related to hematopoietic progenitor cell therapy).

***Washington Health Care Association.*** To Stephen J. Maag, Director of Legal and Regulatory Affairs; February 16, 1988. (Nursing home association's program to evaluate the quality of care provided by nursing homes).

**B. Quality and Utilization Review**

***Academy of Ambulatory Foot Surgery.*** To Andrew K. Dolan, Esq.; July 31, 1987. (Professional association assistance to third-party payers in determining when foot surgery may be restricted to outpatient settings).

***Peer Review Organizations of Ohio Foundation.*** To Larry D. Spencer, Executive Director; April 25, 1984. (Proposal by an association of nine Professional Standards Review Organizations to bid for contract with HHS to serve as a Peer Review Organization for Ohio under the Medicare program).

***American Podiatry Association.*** To Norman Klombers, DPM, Executive Director, and John Grad, Esq., General Counsel, Podiatry Society of Virginia; August 18, 1983. (Peer review of fees, utilization, and quality of care by professional society).

***\*Rhode Island Professional Standards Review Organization.*** 101 F.T.C. 1010 (1983). To Edward J. Lynch, Executive V.P.; May 9, 1983. (Nonbinding peer review for private employers' health benefits programs by a physician organization).

**C. Information Sharing**

***PriMed Physicians.*** To Gregory G. Binford; February 6, 2003. (Proposal by physicians in Dayton, Ohio, to collect and publish information about third party payers' policies and procedures, including fees that specific health plans pay to Dayton doctors compared to fees they pay for the same procedures to physicians in other areas, in connection with the formation of an advocacy group to educate the public about issues affecting the Dayton health care market).

***Central Texas Medical Group ("CTMG").*** To John P. Dunn, M.D.; September 28, 1995. (Proposal by IPA to distribute information and educate its members on managed care and community issues).

**VII. PROFESSIONAL SOCIETY ACTIVITIES**

**A. Codes of Ethics**

***Suffolk County Dental Society.*** To Steven L. Roberts, DDS, President, and Albert A. Sunshine, DDS, Chairman, Ethics Committee; July 6, 1994. (Legality of "exclusive dental plans"; proposed dental society disciplinary action against dentists sponsoring such plans).

***American Society of Cataract and Refractive Surgeons.*** To Jerald A. Jacobs, Esq.; September 20, 1990. (Advisory advertising guidelines).

*American Intra-Ocular Implant Society.* To Jerald A. Jacobs, Esq.; October 11, 1985. (Development of a standard disclosure protocol for intraocular lens manufacturers who offer inducements to physicians).

*North Carolina Chiropractic Association.* To Collin M. Haynie, D.C., Chairman, Ethics Committee; February 29, 1984. (Code of ethics provisions regarding advertising, prior approval of advertising, and fee discounts).

*\*American Academy of Ophthalmology,* 101 F.T.C. 1018 (1983). To Jerald A. Jacobs, Esq.; June 17, 1983. (Provisions in a code of ethics concerning delegation of services to non-physician health care providers, arrangements for postoperative care, use of experimental procedures, and advertising)

**B. Other Activities**

*Maine Medical Association.* To Frederick C. Holler, M.D., President; May 14, 1984. (Physician association to urge members to freeze fees or to lower fees by a given percentage).

**VIII. OTHER AGREEMENTS**

**A. Market Allocation**

*Wichita Area Chamber of Commerce.* To F. Tim Witsman, President; May 22, 1991. (Collective allocation by hospitals of services, equipment, or facilities).

**B. Exclusive Dealing**

*HMO/IPA.* To Gilbert M. Frimet, Esq.; March 22, 1984. (Use by IPA of fee schedule to allocate capitation payment among participating physicians. The proposal would require exclusive dealing by IPA members with the IPA).

*\*Burnham Hospital.* 101 F.T.C. 991 (1983). To Robert E. Nord; February 24, 1983. (Grant to physician group of exclusive right to offer radiology services at a hospital).

**C. Potential Barriers to New Entry**

*Benedictine Health Centers.* To Patrick M. Sheller, Esq.; July 10, 1991. (Proposal by hospital to offer free office space to newly recruited physicians).

***Kitsap Physicians Service.*** To William G. Kopit, Esq.; May 22, 1984, and March 26, 1984. (Proposal by physician-owned IPA/HMO with most of the local physicians as participants to close off access to plan to additional physicians).

**D. Parent Subsidiary Relationships**

***Community Hospital, Inc.*** To Darrell O. Fancher; December 22, 1997. (Corporate restructuring of nonprofit hospital corporation).

**E. Patent Infringement Settlement Agreements**

***\*Bristol-Myers Squibb Company.*** To Richard J. Stark; May 24, 2004. (Proposed settlement of infringement litigation with Teva Pharmaceuticals involving sharing of the exclusivity period for the drug Paraplatin).

**IX. ROBINSON-PATMAN ACT**

**A. Pharmaceutical Pricing Practices**

***Alpena Public Schools.*** To Kathleen A. Reed; June 16, 2006. (Transfer of pharmaceuticals at cost between a non-profit hospital and a non-profit public school system).

***North Mississippi Health Services.*** To Bruce J. Toppin; August 16, 2005. (Sale of pharmaceuticals at cost by non-profit hospital to patients of non-profit clinic and hospice).

***Stevens Hospital.*** To Gordon J. Oakes; April 18, 2005. (Sale of pharmaceuticals by non-profit hospital to patients receiving treatment in clinics that are owned by the hospital).

***Dunlap Memorial Hospital.*** To Judy Erb; January 6, 2004. (Transfer of pharmaceuticals at cost by non-profit hospital to patients of non-profit free clinic).

***Arkansas Children's Hospital.*** To Victoria Bennet; March 13, 2003. (Sale of pharmaceuticals by non-profit children's hospital to patients seen in clinics that are operated by the University of Arkansas for Medical Sciences on the hospital's campus).

***Valley Baptist Medical Center.*** To Louise M. Joy; March 13, 2003. (Sale of pharmaceuticals by hospital to contracted workers who provide services at the hospital).

***Health Access, Inc.*** To Stephen D. Keiss; March 8, 2002. (Sale of vaccines by non-profit hospital to affiliated wellness center).

***Connecticut Hospital Association.*** To Robert M. Langer; December 20, 2001. (Sale of pharmaceuticals by non-profit hospitals to retired employees).

***Harvard Vanguard Medical Associates, Inc.*** To David Marx, Jr.; December 18, 2001. (Sale of pharmaceuticals by non-profit, multi-specialty medical clinic to employees and to patients treated at the clinic).

***BJC Health System.*** To Gary Senner; November 9, 1999. (Sale of pharmaceuticals by non-profit hospital system to the system's employees, affiliated managed care program enrollees, and home care subsidiary).

***Wesley Health Care Center, Inc.*** To David A. Ruffo; April 29, 1999. (Sale of pharmaceuticals by non-profit skilled nursing facility to volunteers working at the facility).

***North Mississippi Health Services.*** To Bruce J. Toppin, Esq.; January 7, 1998. (Sale of pharmaceuticals by non-profit hospital to patients of the hospital's cancer treatment center).

***Henry County Memorial Hospital.*** To Clifton E. Johnson, Esq.; April 10, 1997. (Sale of pharmaceuticals by non-profit hospital to patients of the hospital's PHO).

***North Ottawa Community Hospital.*** To Sheldon Klein, Esq.; October 22, 1996. (Sale of pharmaceuticals by non-profit hospital to unaffiliated, non-profit hospice).

***North Mississippi Health Services.*** To Bruce J. Toppin, Esq.; October 3, 1996. (Sale of pharmaceuticals by non-profit medical center to retired employees).

***Valley Baptist Medical Center.*** To Daniel L. Wellington, Esq.; September 19, 1996. (Sale of pharmaceuticals by non-profit medical center to medical center operated clinic).

***William W. Backus Hospital.*** To Robert M. Langer, Esq.; June 11, 1996. (Sale of pharmaceuticals by non-profit hospital to related non-profit clinics).

***Elkhart General Hospital.*** To Clifton E. Johnson, Esq.; June 13, 1994. (Sale of pharmaceuticals by non-profit hospital to hospital operated home health care program).

***\*Presentation Health System.*** To Tamara D. Lee, Esq.; December 21, 1993. (Sale of pharmaceuticals by non-profit hospitals to related non-profit long-term care facilities).

***Unnamed Hospital.*** To James D. Miller, Esq.; March 31, 1993. (Dispensing of non-profit hospital's purchase of drugs to HMO members and to members of a senior citizens' program).

***Oneida City Hospital.*** To Linus W. Walton, Esq., City Attorney; June 1, 1992. (Sale of prescription drugs by a city-operated hospital to city employees at a price reflecting discounts received by the hospital).

**B.      Other Products**

***Independent Video Services.*** To Bonnie B. Larson, Marketing Manager; January 17, 1990. (Price differences in sale of educational video programs to physicians and hospitals).

***Louisiana Health Care Association.*** To Steven E. Adams, J.D., Director of Governmental Relations; April 23, 1982. (Group purchasing agreement for nursing home association's members).

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- 2002 *Health Access, Inc.*** To Stephen D. Keiss; March 8, 2002. (Sale of vaccines by non-profit hospital to affiliated wellness center).
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- 2001 *Connecticut Hospital Association.*** To Robert M. Langer; December 20, 2001. (Sale of pharmaceuticals by non-profit hospitals to retired employees).
- Harvard Vanguard Medical Associates, Inc.*** To David Marx, Jr.; December 18, 2001. (Sale of pharmaceuticals by non-profit, multi-specialty medical clinic to employees and to patients treated at the clinic).
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- North Mississippi Health Services.* To Bruce J. Toppin, Esq.; January 7, 1998. (Sale of pharmaceuticals by non-profit hospital to patients of the hospital's cancer treatment center).
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- Mobile Health Resources.* To John A. Cook, Esq.; January 23, 1997. (Network of ambulance companies formed to contract for transportation services with third party payers).

- 1996** *Southwest Florida Oral Surgery Associates.* To Guy E. Whitesman; December 2, 1996. (Cooperative of oral and maxillofacial surgery practices formed to jointly market services to third party payers).
- North Ottawa Community Hospital.* To Sheldon Klein, Esq.; October 22, 1996. (Sale of pharmaceuticals by non-profit hospital to unaffiliated, non-profit hospice).
- Business Health Companies, Inc.* To Ralph T. Smith, Jr.; October 18, 1996. (Survey of hospital prices by third party consultant).
- North Mississippi Health Services.* To Bruce J. Toppin, Esq.; October 3, 1996. (Sale of pharmaceuticals by non-profit medical center to retired employees).
- Valley Baptist Medical Center.* To Daniel L. Wellington, Esq.; September 19, 1996. (Sale of pharmaceuticals by non-profit medical center to medical center operated clinic).
- Mayo Medical Laboratories.* To George A. Cumming, Jr., Esq.; July 17, 1996. (State or regional networks of hospital laboratories providing outpatient laboratory services organized to compete for payer contracts).
- William W. Backus Hospital.* To Robert M. Langer, Esq.; June 11, 1996. (Sale of pharmaceuticals by non-profit hospital to related non-profit clinics).
- American Medical Association.* To Kirk B. Johnson; March 26, 1996. (Dissemination of public information relating to proposed revisions to Medicare's resource-based relative value scale).
- Uronet of Louisiana, L.L.C.* To Christopher C. Johnston; January 23, 1996. (IPA network of urologists formed to contract with managed care plans).
- 1995** *Southern Arizona Therapy Network, Inc.* To Martin Janello; December 7, 1995. (Provider network of physical, occupational, and speech therapists organized to facilitate contracts among network members and payers).
- Columbine Family Health Center.* To Richard J. Sahli; November 8, 1995. (Proposal to add a patient sorting provision to an agreement between an acute care hospital and a rural health care clinic).
- Eastern Ohio Physicians Organization, Inc. ("EOPO").* To Stephen P. Nash, Esq.; September 28, 1995. (Multi speciality physician organization established to contract on behalf of its participating physicians with third party payers).

***Central Texas Medical Group ("CTMG").*** To John P. Dunn, M.D.; September 28, 1995. (Proposal by IPA to distribute information and educate its members on managed care and community issues).

***Hematology/Oncology Care Specialists of Western Pennsylvania, P. C.*** To Stephen P. Nash, Esq.; September 21, 1995. (Physician network of hematology/oncology services providers formed to negotiate with third-party payers).

***Otolaryngology Specialty Providers of Georgia.*** To Thomas W. Rhodes, Esq.; August 15, 1995. (Physician network of otolaryngology services providers formed to facilitate individual contracts among network members and third-party payers).

***Northwestern Nevada Orthopaedic Surgery Alliance.*** To Jacqueline C. Cox; July 11 & 27, 1995. (Physician network of orthopaedic services providers formed to facilitate individual contracts among network members and payers).

***Elmore Community Hospital, Inc.*** To Derrell O. Fancher; June 20, 1995. (Joint venture between two acute care hospitals for the purchase of certain personnel and other services).

***California All Health.*** To William G. Kopit, Esq. and Clifford E. Barnes, Esq.; June 14, 1995. (Joint venture of six health maintenance organizations formed to bid for certain California Medicaid contracts).

***Erlanger Medical Center/ Women's East Inc.*** To Carlos C. Smith, Esq. and Edward N. Boehm, Esq.; May 31, 1995. (Joint venture between two acute care hospitals for establishment of a new hospital specializing in obstetrical hospital services).

***Oakland Physician Network, L.L.C.*** To John A. Cook, Esq.; March 28, 1995. (Physician network joint venture composed of primary care physicians formed to market primary and specialty physician services to health benefit plans).

**1994 *Rocky Mountain Cardiovascular Affiliates.*** To Neil E. Ayervais, Esq.; September 23, 1994. (Proposal by a limited liability company composed of physician cardiovascular services practices to negotiate and contract with third party payers).

***Palmetto Dental Alliance.*** To Scott Y. Barnes, Esq.; September 23, 1994. (Proposal by exclusive provider organization to provide dental services to beneficiaries of third party health benefits plans).

***Suffolk County Dental Society.*** To Steven L. Roberts, Albert A. Sunshine, DDS, Chairman, Ethics Committee; July 6, 1994. (Legality of "exclusive dental plans"; proposed dental society disciplinary action against dentists sponsoring such plans).

***South East Managed Care Organization/Jackson Medical Cooperative.*** To George Q. Evans, Esq.; July 5, 1994. (Physician network joint venture between physician directed managed care organization and group of physician providers).

***ACMG, Inc.*** To Paul W. McVay, President; July 5, 1994. (Proposed agreement between state medical society and independent health care management and development company to establish society-sponsored state-wide PPO).

***Elkhart General Hospital.*** To Clifton E. Johnson, Esq.; June 13, 1994. (Sale of pharmaceuticals by non-profit hospital to hospital operated home health care program).

***\*American Medical Association. (1994).*** To Kirk B. Johnson, General Counsel; February 14, 1994. (Proposal concerning professional society peer review of physicians' fees, required physician participation in advisory fee review, and medical society discipline for fee-related conduct).

**1993** ***\*Presentation Health System.*** To Tamara D. Lee, Esq.; December 21, 1993. (Sale of pharmaceuticals by non-profit hospitals to related non-profit long-term care facilities).

***California Managed Imaging Medical Group, Inc.*** To J. Bert Morgan, Esq.; November 17, 1993. (Proposal by a radiologist-owned PPO network to provide professional radiology services to payers on a regional or statewide basis. The letter discusses fee-setting, market power, and limitation of provider panel).

***Unnamed Hospital.*** To James D. Miller, Esq.; March 31, 1993. (Dispensing of non-profit hospital's purchase of drugs to HMO members and to members of a senior citizens' program).

**1992** ***Oneida City Hospital.*** To Linus W. Walton, Esq., City Attorney; June 1, 1992. (Sale of prescription drugs by a city-operated hospital to city employees at a price reflecting discounts received by the hospital).

**1991** ***Benedictine Health Centers.*** To Patrick M. Sheller, Esq.; July 10, 1991. (Proposal by hospital to offer free office space to newly recruited physicians).

***IPA sponsored PPO.*** To Martin J. Thompson; June 20, 1991. (IPA network's sponsorship of a PPO to negotiate prices with hospitals whose services will be marketed as part of the PPO).

***Dental Consultant Salary Survey.*** To Samuel D. Dednam, D.M.D.; May 30, 1991. (Survey of salary ranges for certified dental consultants).

***Wichita Area Chamber of Commerce.*** To F. Tim Witsman, President; May 22, 1991. (Collective allocation by hospitals of services, equipment, or facilities).

- National Capital Society of Plastic and Reconstructive Surgeons.* To Robert J. Wilensky, M.D., President-Elect; April 23, 1991. (Formation of a physician panel which would render advisory opinions regarding fee disputes).
- 1990** *American Society of Cataract and Refractive Surgeons.* To Jerald A. Jacobs, Esq.; September 20, 1990. (Advisory advertising guidelines).
- American Dental Association.* To Peter M. Sfikas, Esq.; February 15, 1990. (Study of the establishment of UCR rates by dental insurers and the impact of those rates on consumers' out-of-pocket costs).
- Independent Video Services.* To Bonnie B. Larson, Marketing Manager; January 17, 1990. (Price differences in sale of educational video programs to physicians and hospitals).
- 1989** *Pan American Management Associates.* To Robert P. Macina, Esq.; June 27, 1989. (Creation of a limited partnership between hospital and physicians to establish a PPO. The physicians would be excluded from price negotiations with payers).
- 1988** *Intracorp.* To Sharon B. Donzis, Esq.; March 25, 1988. (Proposal by a cost-containment service to use a physician-developed RVS to determine UCR price screens).
- Washington Health Care Association.* To Stephen J. Maag, Director of Legal and Regulatory Affairs; February 16, 1988. (Nursing home association's program to evaluate the quality of care provided by nursing homes).
- 1987** *Academy of Ambulatory Foot Surgery.* To Andrew K. Dolan, Esq.; July 31, 1987. (Professional association assistance to third-party payers in determining when foot surgery may be restricted to less expensive outpatient settings).
- Maryland Medical Eye Associates.* To Charles E. Rosolio; May 15, 1987. (Formation, marketing, and operation of a partially integrated professional organization, owned by nine ophthalmologists who are in five separate medical practices, to offer services to HMOs and other groups on a capitation and fee schedule basis).
- 1986** *Pacific International Health, Inc.* To Richard C. Greenberg, Esq.; August 28, 1986. (Formation and operation of a provider-controlled PPO; price agreements to be between individual participating physicians and each payer).
- Association for Quality Health Care, Inc.* To Cecil M. Cheves, Esq.; August 28, 1986. (Proposal by an association of employers with self-funded health plans to negotiate with providers).

***The Equitable Life Assurance Society.*** To Jonathan E. Gaines, Esq., V.P. and Counsel; March 26, 1986. (Proposal by an insurer to enter into contracts with hospitals for DRG-based payment. The prices would apply to insurer's own business and would be available to self-funded plans that contract with the insurer for that service).

***California PPO.*** To: Michael A. Duncheon, Esq.; March 17, 1986. (Proposal by PPO composed of multiple hospitals and physician organizations to negotiate contracts with third-party payers).

***Passaic County Medical Society.*** To William T. McGuire, Executive Director; January 3, 1986. (Professional society's peer review of physicians' fees that is mandatory and binding on the physician).

**1985** ***North Texas Chapter of the American College of Surgeons.*** To B. Ward Lane, M.D., President; December 12, 1985. (Survey of members' fees).

***American Intra-Ocular Implant Society.*** To Jerald A. Jacobs, Esq.; October 11, 1985. (Development of a standard disclosure protocol for intraocular lens manufacturers who offer inducements to physicians).

***Private Healthcare Systems.*** To Michael L. Denger, Esq.; September 24, 1985. (Proposal by an insurer to develop a proprietary national network of managed health care systems and to function as a joint purchasing agent for commercial health insurers).

***American Dental Association.*** To Peter M. Sfikas, Esq.; August 26, 1985. (Survey of the range of dentists' fees in local markets).

***\*American Society of Internal Medicine*** 105 F.T.C. 505 (1985). To William G. Kopit, Esq.; April 19, 1985. (Development and dissemination of RVS by an association of physicians).

***Utah Society of Oral and Maxillofacial Surgeons.*** To Dennis L. Dedecker, D.D.S., Secretary; February 8, 1985. (Survey of range of fees and average fees charged by members).

**1984** ***Tarrant County Medical Society.*** To Lynn C. Perkins, M.D., President; July 11, 1984. (Medical society advisory fee review program for the voluntary resolution of disputes).

***Maine Medical Association.*** To Frederick C. Holler, M.D., President; May 14, 1984. (Physician association to urge members to freeze fees or to lower fees by a given percentage).

***Peer Review Organizations of Ohio Foundation.*** To Larry D. Spencer, Executive Director; April 25, 1984. (Proposal by an association of nine Professional Standards

Review Organizations to bid for contract with HHS to serve as a Peer Review Organization for Ohio under the Medicare program).

***Kitsap Physicians Service.*** To William G. Kopit, Esq.; May 22, 1984, and March 26, 1984. (Proposal by physician-owned IPA/HMO with most of the local physicians as participants to close off access to plan to additional physicians).

***HMO/IPA.*** To Gilbert M. Frimet, Esq.; March 22, 1984. (Use by IPA of fee schedule to allocate capitation payment among participating physicians. The proposal would require exclusive dealing by IPA members with the IPA).

***American Podiatry Association.*** To Werner Strupp, Esq.; March 13, 1984. (Use of HCFA's Medicare fee profile by society as reference aid in reviewing reasonableness of disputed fees).

***Medical Society of the County of Erie.*** To James F. Phillips, M.D., President; March 12, 1984. (Medical society discussions with third-party payers regarding fee allowances).

***North Carolina Chiropractic Association.*** To Collin M. Haynie, D.C., Chairman, Ethics Committee; February 29, 1984. (Code of ethics provisions regarding advertising, prior approval of advertising, and fee discounts).

**1983** ***American Podiatry Association.*** To Norman Klombers, DPM, Executive Director, and John Grad, Esq., General Counsel, Podiatry Society of Virginia; August 18, 1983. (Peer review of fees, utilization, and quality of care by professional society).

***\*American Academy of Ophthalmology.*** 101 F.T.C. 1018 (1983). To Jerald A. Jacobs, Esq.; June 17, 1983. (Provisions in a code of ethics concerning delegation of services to non-physician health care providers, arrangements for postoperative care, use of experimental procedures, and advertising).

***\*Health Care Management Associates,*** 101 F.T.C. 1014 (1983). To Irwin S. Smith, M.D., President; June 7, 1983. (PPO organized by an independent intermediary between physicians and payers).

***\*Rhode Island Professional Standards Review Organization,*** 101 F.T.C. 1010 (1983). To Edward J. Lynch, Executive V.P.; May 9, 1983. (Nonbinding peer review for private employers' health benefits programs by a physician organization).

***\*Burnham Hospital.*** 101 F.T.C. 991 (1983). To Robert E. Nord; February 24, 1983. (Grant to physician group of exclusive right to offer radiology services at a hospital).

**1982** *Louisiana Health Care Association*. To Steven E. Adams, J.D., Director of Governmental Relations; April 23, 1982. (Group purchasing agreement for nursing home association's members).

*\*Iowa Dental Association*. 99 F.T.C. 648 (1982). To Peter M. Sfikas, Esq.; April 8, 1982. (Voluntary and advisory peer review of dentists' fees by a professional society).